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APPEAL BRIEF TRANSMITTAL LETTER (Large Entity)  
Applicants: Joseph L. Menner et al.

Docket No.  
1670A1

Serial No.  
09/870,073

Filing Date  
May 30, 2001

Examiner  
Cheryl Renea Lewis

Group Art Unit  
2177

Invention:

**METHOD OF COLOR MATCHING USING MULTIPLE COLOR DATABASES**

TO THE COMMISSIONER FOR PATENTS:

Transmitted herewith is an Appeal Brief in the above-identified application.

The fee has been calculated and is transmitted as shown below.

**CLAIMS AS AMENDED**

	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST # PREV. PAID FOR	NUMBER EXTRA CLAIMS PRESENT	RATE	ADDITIONAL FEE
TOTAL CLAIMS	45	45 =	0	X \$18.00	\$00.00
INDEP. CLAIMS	4	4 =	0	X \$86.00	\$00.00
Multiple Dependent Claims (check if applicable) <input type="checkbox"/>					\$00.00
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT					\$00.00

☐ No additional fee is required for amendment

☒ Please charge Deposit Account No. 16-2025 in the amount of \$ 330.00 (A duplicate copy of this sheet is enclosed)

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☒ Any patent application processing fees under 37 C.F.R. 1.17.

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Dated: September 27, 2004

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: MAIL STOP APPEAL BRIEF PATENTS, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on September 27, 2004.

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09/27/2004  
Date

**Appellant's Brief Under 37 C.F.R. § 1.192**

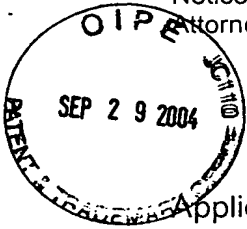
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Paper dated September 27, 2004

Paper in furtherance of

Notice of Appeal filed July 26, 2004

Attorney Docket No. 1670A1



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Application No. : 09/870,073

Applicants : Joseph L. Menner et al.

Filed : May 30, 2001

Title : METHOD OF COLOR MATCHING USING  
MULTIPLE COLOR DATABASES

Group Art Unit : 2177

Examiner : Cheryl Renea Lewis

**APPEAL BRIEF**

**MAIL STOP APPEAL BRIEF PATENTS**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

This Appeal Brief is submitted in support of the Notice of Appeal filed on July 22, 2004. The Notice of Appeal was received in the United States Patent and Trademark Office on July 26, 2004. The Appeal is timely filed on September 27, 2004 because September 26, 2004 fell on a Sunday. The Notice of Appeal appeals the final rejection of claims 1-45.

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## **I. REAL PARTY IN INTEREST**

PPG Industries Ohio, Inc. is the Assignee of the entire right, title, and interest in the above-identified application, as evidenced in the Assignment recorded May 30, 2001 on reel 011858, frame 0968 and as such, is the real party in interest in this Appeal.

## **II. RELATED APPEALS AND INTERFERENCES**

There are no other appeals or interferences known to Appellants, Appellants' legal representative or Assignee, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending Appeal.

## **III. STATUS OF CLAIMS**

Claims 1-45 remain pending in the present application and are currently rejected. Specifically, claims 1, 2, 4, 5, 7, 9, 11-18, 20, 21, 23, 25 and 27-32 stand rejected for obviousness over U.S. Patent No. 4,921,929 to Sherman and U.S. Patent No. 6,137,903 to Dichter. Claims 3 and 19 stand rejected for obviousness over the Sherman and Dichter patents in view of U.S. Patent No. 6,459,453 to Eichel. Claims 6 and 22 stand rejected for obviousness over the Sherman and Dichter patents in view of U.S. Patent No. 4,887,906 to Koehler. Claims 8 and 24 stand rejected for obviousness over the Sherman and Dichter patents in view of U.S. Patent No. 6,122,391 to Ringland et al. Claims 10 and 26 stand rejected over the Sherman and Dichter patents in view of U.S. Patent No. 5,559,604 to Arai. Claims 33 and 38 stand rejected over the Sherman and Dichter patents in view of U.S. Patent No. 6,563,510 to Rice et al. Claims 34-37 and 39-45 stand rejected over the combination of the teachings of the Sherman, Dichter, Rice and Ringland patents.

Claims 1-45 are reproduced in Appendix A, which is attached hereto.

## **IV. STATUS OF AMENDMENTS**

A Response After Final Office Action was submitted in this case on May 25, 2004 with no claim changes. That Response was filed to set forth in writing

the points enumerated by Appellants' representative in the telephone interview of May 19, 2004. The Examiner had indicated an appreciation for allowable subject matter in that interview, but requested a Response After Final Office Action be submitted to place those points on the record. The claims on appeal are the claims as originally filed on May 30, 2001, which are finally rejected in the final Office Action of April 22, 2004.

## **V. SUMMARY OF THE INVENTION**

The present invention relates to methods and systems for matching or coordinating decorative products based on color. A decorative product in a first database of products of one type (such as a database of carpets) is matched to a product in another database containing different decorative products (such as wallpaper) based on their respective coordinating colors.

The embodiment of the present invention set forth in claim 1 is a method of selecting decorative products based on color. A plurality of decorative product databases are provided in step (1). Each database contains information on one type of decorative product. For example, one database contains a listing of wallpaper and another database lists floor coverings. See claim 8. Each decorative product in all the databases has color data (a color value) associated therewith. In step (2), the user selects at least one decorative product in one or more of the databases. The product selected in step (2) is to be color coordinated with another product in another database. The selected decorative product has color data associated therewith; in step (3), the color data of that selected decorative product is identified. The identified color data of the selected decorative product serves the basis for the searching in step (4) of the other databases provided in step (1) for other decorative products that are different from the product selected initially by the user in step (2). The search of step (4) is for products having a color that coordinates with the color of the originally selected decorative product based on their respective color data. The result of the database search is provided in step (5) as at least one decorative product in one of the other databases.

Claim 33 defines a similar method of selecting a decorative product where the color data for decorative products in the various product databases is paint data, i.e., information about the color of paints. One of the product databases in this embodiment is a database of paints. An important feature of the present invention is that the starting point in the process is the selection of an original decorative product. That feature is set forth in step (2) of claim 1 and step (3) of claim 33. The method of claim 33 is specifically directed to searching for decorative products in databases which include a database of paint.

The present invention further includes systems for coordinating decorative products based on their color. Claims 17 and 38 parallel claims 1 and 33, respectively. Claim 17 includes a means for determining the color value of at least one selected decorative product in one of the databases. Again, this is the originally selected decorative product for which the user is seeking to coordinate with other decorative products in other databases of the system based on their colors.

The system of claim 38 coordinates decorative products in a plurality of databases based on color where one of the databases contains data on paint and the other databases contain listings of other decorative products. The paint database includes paint data. The other databases list other products and contain related paint data, i.e., information about paints that is relevant to the products in those other databases. The means for identifying related paint data of a preselected decorative product in element (4) may be color information or may be information regarding the paint which can be used to match related paint data of a preselected decorative product with decorative products in other product databases.

By way of the above-mentioned example of coordinating carpet and wallpaper, the user selects a carpet in the carpet database. That preselected carpet is the starting point for the search for matching or coordinating products. The carpet database includes color data for all the carpets in the carpet database. The wallpaper database includes color data for all the wallpaper in the wallpaper database. The color data for the carpet preselected by the user is compared to color data for the wallpaper products in the wallpaper database to identify wallpaper that

color coordinates with the preselected carpet. The user now knows of at least two products that have coordinating colors, a carpet and a wallpaper.

## **VI. ISSUES PRESENTED**

The issues on appeal include:

1. Are claims 1, 2, 4, 5, 7, 9, 11-18, 20, 21, 23, 25 and 27-32 obvious under 35 U.S.C. §103(a) in view of U.S. Patent No. 4,921,929 to Sherman and U.S. Patent No. 6,137,903 to Dichter?
2. Are claims 3 and 19 obvious over the Sherman and Dichter patents in view of U.S. Patent No. 6,459,453 to Eichel?
3. Are claims 6 and 22 obvious over the Sherman and Dichter patents in view of U.S. Patent No. 4,887,906 to Koehler?
4. Are claims 8 and 24 obvious over the Sherman and Dichter patents in view of U.S. Patent No. 6,122,391 to Ringland et al.?
5. Are claims 10 and 26 obvious over the Sherman and Dichter patents in view of U.S. Patent No. 5,559,604 to Arai?
6. Are claims 33 and 38 obvious over the Sherman and Dichter patents in view of U.S. Patent No. 6,563,510 to Rice et al.?
7. Are claims 34-37 and 39-45 obvious over the combination of the teachings of the Sherman, Dichter, Rice and Ringland patents?

## **VII. GROUPING OF CLAIMS**

The claims are grouped as follows:

Group I: claims 1-32; and

Group II: claims 33-45.

The support for consideration of the grouping of claims is addressed in the arguments set forth in the Arguments section of this Appeal Brief.

## VIII. ARGUMENT

The present invention relates to methods and systems for matching decorative products based on color data. A decorative product in a database of products of the same type is matched to another decorative product of a different type in another database based on their coordinating colors. The prior art fails to suggest the claimed methods and systems.

### A. The Sherman patent

The Sherman patent is directed to a process and system for identifying and displaying all products in a computerized database which share a common characteristic. The system includes an image database which contains images of each product. The product database contains information regarding the price, manufacturer, color and location on the image database for each product. The products may be grouped within the database by their type such as groups of chairs, carpets or wall coverings. In operation, a user of the Sherman system specifies a product type of interest (e.g., chairs) and is provided with a list of characteristics for that product type. The user then chooses one or more of the desired characteristics, such as color. The desired characteristics may be input to the system such as by inputting colorimetry data from a color swatch. In this portion of the process (identified as step 300) the user is essentially narrowing the search for a set of products which meet a search criteria of the product type (e.g., a chair) and product characteristics (e.g., color). The system then searches for products meeting those criteria. The images of products which meet those criteria are displayed on the computer. The system and process disclosed in the Sherman patent differs from the present invention in several key aspects.

#### 1. The Sherman patent does not suggest use of multiple product databases

The present invention requires providing a plurality of decorative product databases. Each of the databases contains data on one type of decorative product with color data for each decorative product in the database. The system of

the Sherman patent contains a single product database which includes a variety of product data (price, manufacturer, color and location in the image database). The products may be grouped by type (e.g., chairs and carpets) in separate file groupings. However, there is no separate decorative product database for each type of product.

In the present invention, a search occurs between one database of one product type and another separate database. The Sherman patent does not disclose separate databases with searching between the databases. The Sherman system is not designed to search between the groups of files containing groups of products to identify coordinating products between types of products such as between chairs and carpets. The Sherman process only identifies products which meet certain user-defined criteria. There is no feature comparable to step (1) of claim 1 or element (1) of claim 17 of a plurality of databases, each database dedicated to one type of decorative product. Furthermore, there is no separate paint database as required by claims 33 and 38. The Sherman patent provides no motivation to modify the single product database of Sherman into multiple databases for multiple product types. Sherman uses product type as a search criteria and only seeks to identify products which meet the criteria. Sherman does not consider selecting products having coordinating colors from different databases of various product types.

2. The Sherman patent does not suggest using a preselected product as a search start point

The starting point for the process of the present invention is a preselected decorative product. The user selects a product in one of the databases per step (2) of claim 1; the "at least one decorative product" is a preselected decorative product. The system of claim 17 includes a means for determining the color value of a selected (i.e., preselected product) product (element 2), means for searching other databases based on that color value of the selected product (element 3) and means for identifying other decorative products in those other databases having a color coordinating with selected product's color.



To the extent that the Sherman process and system "selects" a decorative product, that selection is actually the end point of the process and not its starting point. The selection of a decorative product is based upon the user chosen characteristics and product type entered into the Sherman computer system.

Step (3) of claim 1 requires identifying the color data of the preselected decorative product and element (2) is a means for determining that color data. Once a user has selected a decorative product of interest for coordinating with other products, the present invention identifies the color data of that preselected decorative product. In contrast, once the Sherman process selects a decorative product and identifies it in the characteristic database and displays the product from the image database, there is no need to identify any color data for the decorative product. To the extent that color data is input into the system of Sherman, that color data is not color data of a preselected decorative product. Instead, it is data used as a search criteria.

3. The Sherman patent does not identify a decorative product different from a preselected product

The endpoint of the present invention is identification of a decorative product (different from the one previously selected as a starting point) in a database that differs from the database of the preselected decorative product. Steps (4) and (5) of claim 1 require searching the databases (other than the database containing the preselected product) for another decorative product that has a coordinating color based on the color data of the preselected decorative product. Element (2) of claim 17 requires means for determining color value of a "selected" product (a preselected product found in one of the product databases) and element (4) is a means for identifying a product different from that preselected product. Nowhere does Sherman consider a preselected product as a starting point in a search. The Sherman process does not use a decorative product as a starting point for identifying color data to be coordinated with color data of other decorative products. As such there can be no step of identifying a decorative product that is different from the preselected decorative product selected in step (2) of claim 1 or an element

identifying a different product as in claim 17, element (4). Since the Sherman patent lacks any process steps comparable to steps (5) and (6) of claim 1, it necessarily fails to disclose means for determining the color value of a preselected decorative product and means for identifying another decorative product having a color value that coordinates with the color value of the preselected product.

Sherman lacks several features of the claimed invention. First, Sherman does not involve searching for products between multiple product databases. The Sherman system includes a single product database and an image database. The product database contains information regarding the price, manufacturer, color and location on the image database for each product. The image database contains images of each product in the product database. Secondly, Sherman identifies products that meet a set of criteria. No preselected product is used as a starting point. In fact, a product is the endpoint; not the beginning of the Sherman search. Thirdly, there can be no searching between product databases since there is only one product database in Sherman. Finally, there is no searching or identifying products of another type by color data.

By way of comparative example, a user of the Sherman system specifies a product type of interest (e.g., carpet) and is provided with a list of characteristics for carpets. The user then chooses one or more of the desired characteristics, such as color (e.g., green). Images of carpets that meet those criteria are displayed on the computer. The Sherman system narrows the set of decorative products in the product database to carpets and narrows the set again to identify green carpets. Images of all green carpets in the product database are displayed.

Sherman provides no consideration to searching based upon a preselected decorative product. The Sherman system does not search for products between databases of products; it only creates a single list of products. Sherman does not identify the color data of a preselected decorative product and coordinate color based on the identified color data since it is not looking for decorative products that are different than some preselected decorative product. There is no consideration given to coordinating products from one database to another database

wherein each database contains a certain type of product (such as furniture, wall coverings, paint and the like). Nowhere in Sherman is there any motivation to alter the process and system thereof since it has a very limited goal of identifying products of one type (e.g., carpets) that meet certain criteria.

B. Secondary references

The secondary references do not account for the failure of the Sherman patent to suggest the claimed methods and systems for identifying color-coordinating products.

1. The Dichter patent

To the extent that the Dichter patent discloses means to identify color data of a decorative product and coordinate the color to enable a color transformation of images, the Dichter patent is not particularly relevant to the claimed invention. Dichter discloses a process for changing the color and appearance of a computer image to a different color and appearance. There are no databases of existing products and no selection of products. Dichter is limited to a system for designing new products and not for selecting preexisting products based on certain criteria. As such, the teachings of Dichter are not even combinable with those of Sherman since Dichter relates to a design tool for transforming color images and the Sherman patent relates to a technique for searching and displaying products of a single database which meet a user's criteria.

Dichter discloses a process for changing the color and appearance of a computer image to a different color and appearance. There are no databases of existing products and no selection of products. Dichter is limited to a system for designing new products and not for selecting preexisting products based on certain criteria. As such, the teachings of Dichter are not even combinable with those of Sherman.

2. Additional cited patents

The Eichel patent only teaches searching design patterns on a computer network; the Koehler patent only teaches use of a spectrophotometer for color selection; the Ringland patent only teaches computerized selection of various decorative products for convenient viewing; the Arai patent only teaches L\*a\*b\* color measurements.

None of those disclosures supplement what is lacking in the Sherman and Dichter patents, namely any motivation to modify those disclosures to practice the method and system of the present invention of selecting a decorative product based on a preselected product by comparison of color data of that original decorative product to the color data of decorative products in other databases of products.

Claim 33 parallels claim 1 but requires that one of the databases contains paints and that "paint data" (instead of "color data") is used to coordinate the colors of decorative products.

The system of claim 38 likewise parallels the system of claim 17 except that the system necessarily contains a paint database and the system includes components that operate based on "paint data". The Rice patent teaches a method and system for identifying paints with complementary colors to the color of a reference paint. However, it fails to account for the deficiencies in the remaining cited references on the underlying aspect of the present invention, namely the use of multiple databases of decorative products for searching and identifying decorative products which coordinate with the preselected products based on the color data of all the decorative products or paint data related to all the decorative products.

The Ringland patent also lacks suggestion to preselect a decorative product and identify other products in other databases that coordinate therewith based on color data.

**Appellant's Brief Under 37 C.F.R. § 1.192**

Application No. 09/870,073

Paper dated September 27, 2004

Paper in furtherance of

Notice of Appeal filed July 26, 2004

Attorney Docket No. 1670A1

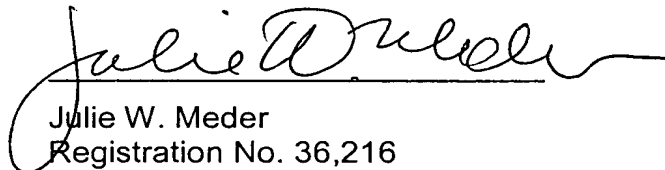
**CONCLUSION**

In view of the foregoing, claims 1-45 define over the prior art of record and are in condition for allowance. Reconsideration of the rejections and allowance of claims 1-45 are respectively requested.

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**IX.**

**APPENDIX A**

1. A method of selecting one or more decorative products based on color comprising the steps of:
  - (1) providing a plurality of decorative product databases, each said database containing product data on one type of decorative product and color data comprising a color value for each decorative product;
  - (2) selecting at least one decorative product in one or more of the databases;
  - (3) identifying the color data of the decorative product(s) selected in step (2);
  - (4) searching the databases of step (1) for decorative products different than those selected in step 2 and having a coordinating color based on the color data identified in step (3); and
  - (5) identifying one or more decorative products in the other databases of step (1) which have color values which coordinate with the color value of the decorative product(s) selected in step (2).
2. The method of claim 1 in which the databases are in digital form and stored in a computer.
3. The method of claim 2 in which the databases are accessible via a computer network.
4. The method of claim 2 in which the searching function is done on a computer.

5. The method of claim 2 in which step (5) is done through the aid of an algorithm.

6. The method of claim 1 in which the color value of the decorative product(s) in step 3 is determined with a spectrophotometer.

7. The method of claim 1 in which at least one of the decorative product databases contains data on paints.

8. The method of claim 7 in which at least one other decorative product database contains data on products selected from the group consisting of wallpaper, fabric, floor coverings, and window treatments.

9. The method of claim 1 in which the color value comprises the hue, chroma, and brightness of the product.

10. The method of claim 9 in which the color value comprises an L\*a\*b\* measurement of the product.

11. The method of claim 1 in which the decorative product(s) identified in step (5) has a color value which best matches the color value of the decorative product(s) selected in step (2).

12. The method of claim 1 in which the decorative product(s) identified in step (5) has a color value for a color that complements or contrasts with the color for the color value of the decorative product(s) selected in step (2).

13. The method of claim 1 in which the databases of step (1) contain additional information on the decorative products comprising product supplier, price, product code, size, or style.

14. The method of claim 13 in which step (5) includes identifying the additional information for the coordinating decorative product(s).

15. The method of claim 13 in which step (5) identifies a decorative product(s) from a single supplier.

16. The method of claim 13 in which step (5) identifies a decorative product(s) having a price within a predetermined price range.

17. A system for coordinating decorative products based on color comprising:

- (1) a plurality of databases, each said database containing product data on one type of decorative product and color data comprising a color value for each decorative product;
- (2) means for determining the color value of at least one selected decorative product in one or more of said databases of component (1);
- (3) means for searching another database of component (1) for a decorative product having a color value coordinating with the color value of a selected product; and
- (4) means for identifying one or more decorative products in the other databases of component (1) which has a color which coordinates with the color of the selected decorative product(s).

18. The system of claim 17 in which the databases are stored in digital form in a computer.

19. The system of claim 18 in which the databases are accessible via a computer network.



20. The system of claim 17 in which the means for searching the databases is a computer.

21. The system of claim 17 in which the means for identifying a decorative product comprises an algorithm.

22. The system of claim 17 in which the means for determining the color value of a selected decorative product(s) in component (2) is a spectrophotometer.

23. The system of claim 17 in which at least one of the decorative product databases contains data on paints.

24. The system of claim 22 in which at least one other decorative product database contains data on products selected from the group consisting of wallpaper, fabrics, floor coverings, and window treatments.

25. The system of claim 17 in which the color value comprises the hue, chroma, and brightness of the product.

26. The system of claim 25 in which the color value comprises an L\*a\*b\* measurement of the product.

27. The system of claim 17 in which said component (3) searches for a decorative product(s) having a color value which best matches the color value of a decorative product(s) determined by component (2).

28. The system of claim 17 in which said component (3) searches for a decorative product(s) having a color which complements or contrasts with the color of the selected product(s).

29. The system of claim 17 in which the databases of component (1) contain additional information on the decorative products comprising product supplier, price, product code, size, or style.

30. The system of claim 29 in which component (4) identifies the additional information for the coordinating decorative product(s).

31. The system of claim 29 in which component (4) identifies a decorative product(s) from a single supplier.

32. The method of claim 29 in which component (4) identifies a decorative product(s) having a price within a predetermined price range.

33. A method of selecting one or more decorative product(s) based on color comprising the steps of:

- (1) providing a paint database containing color data;
- (2) providing at least one other database including (i) data on decorative products other than paint and (ii) related paint data on paints having colors coordinating with the colors of the decorative products in the other database(s);
- (3) searching for a preselected decorative product in one of the paint or other decorative product databases;
- (4) identifying the related paint data for the preselected decorative product;
- (5) searching the other decorative product database for the related paint data identified in step (4); and
- (6) identifying another decorative product in the other decorative product database having the related paint data identified in step (4).

34. The method of claim 33 in which the other decorative product types are selected from the group consisting of wallpaper, fabrics, floor coverings, and window treatments.

35. The method of claim 33 in which the related paint data of step (4) includes identification information on paint from a primary supplier.

36. The method of claim 35 in which the first database contains data on paint from the primary supplier and data on paint from at least one secondary supplier.

37. The method of claim 36 wherein the related paint data for paint from the secondary paint supplier comprises the identification information on paint from the primary supplier.

38. A system for coordinating decorative products based on color comprising:

- (1) a first paint database containing data on color;
- (2) at least one other decorative product database containing (i) data on another type of decorative product(s) and (ii) related paint data on paints having colors coordinating with the colors of the decorative products in the other database(s);
- (3) means for searching for a preselected decorative product in one of said databases;
- (4) means for identifying the related paint data for the preselected decorative product; and
- (5) means for matching the related paint data of the preselected decorative product with paint data of one or more other decorative products in said other decorative product databases to select one or more decorative products that coordinate with the preselected decorative product.

39. The system of claim 38 in which said product types of the other databases are selected from the group consisting of wallpaper, fabrics, floor coverings, and window treatments.

40. The system of claim 38 wherein said paint data includes identification information on paint from a primary supplier.

41. The system of claim 40 in which said paint database contains data on paint from the primary supplier and data on paint from at least one secondary supplier.

42. The system of claim 41 in which the related paint data for the secondary supplier paint comprises said identification information on paint from the primary supplier.

43. The system of claim 38 in which said related paint data for said second databases includes information on a plurality of paints.

44. The system of claim 43 in which said related paint data on a plurality of paints corresponds to a plurality of colors in one product in one of said second databases.

45. The system of claim 44 in which one of said colors is a background color in said product and another of said colors is an accent color in said product.